

MARK A. KLAASSEN
United States Attorney
JONATHAN C. COPPOM (WY Bar # 7-5548)
Assistant United States Attorney
P.O. Box 668
Cheyenne, WY 82003-0668
(307) 772-2124
jonathan.coppom@usdoj.gov

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U.S. DISTRICT COURT
DISTRICT OF WYOMING
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MARGARET BOTKINS, CLERK
CHEYENNE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

UNITED STATES OF AMERICA,

Plaintiff,

v.

ONE HK-SP89 SHORT-BARRELED
RIFLE, SERIAL NO. 21-14886,

Defendant.

Case No. 19-CV-258-F

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

The United States of America, through Assistant United States Attorney Jonathan C. Coppom, for its Complaint asserts:

NATURE OF THE ACTION AND DEFENDANT *IN REM*

1. This is an action to forfeit and condemn to the use and benefit of the United States one HK-SP89 short-barreled rifle bearing serial number 21-14886 (SP89).

2. The Defendant, SP89, is a 9mm semi-automatic handgun modified with a side-folding stock; its rifled barrel is about 4.5 inches long and, as modified, its total length is about 22 inches.

JURISDICTION AND VENUE

3. The United States brings this action *in rem* under 26 U.S.C. § 5872, which provides for the forfeiture of any firearm involved in a violation of the National Firearms Act (NFA).

4. This Court has jurisdiction over this action under 28 U.S.C. §§ 1345 and 1355 because this is a forfeiture action brought by the United States.

5. This Court is the appropriate venue because the SP89 is located in this District.

FACTS

6. On March 1, 2019, a detective with the Evanston Police Department received information that an individual had passed away in Evanston, Wyoming.

7. The decedent's sister, who was settling the estate, found several firearms during that process that she determined she wanted police to examine.

8. Law enforcement responded to that request and found the SP89.

9. A typical SP89 is a 9mm semi-automatic handgun with a rifled barrel. It has a barrel length of about 4.5 inches.

10. The SP89 in this case, however, has been modified with a side-folding stock that converted it to a short-barreled rifle with an overall length of about 22 inches.

11. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) was alerted to the matter and Special Agent (SA) Jay Johnson began investigating the case.

12. SA Johnson submitted an NFA search for the firearms and the deceased.

13. The searched returned no records related to the decedent or to the SP89, which means that it is not lawfully registered as the NFA requires.

14. In the course of the investigation, ATF seized the SP89 in Evanston, Wyoming. It is now held securely in ATF offices in the District of Wyoming.

15. On information and belief, the appropriate paperwork to transfer the SP89 has never been completed or filed in accordance with the NFA.

16. On information and belief, the deceased never registered—and no one else ever lawfully received transfer of—the SP89 in compliance with the NFA.

CLAIM FOR FORFEITURE

17. The United States incorporates Paragraphs 1 through 16 here.

18. Under 26 U.S.C. § 5861(b), it is unlawful “to receive or possess a firearm transferred to him in violation of the” NFA.

19. Under 26 U.S.C. § 5861(d), it is unlawful “for any person . . . to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record.”

20. Under 26 U.S.C. § 5872, “[a]ny firearm involved in any violation of the provisions of this chapter shall be subject to forfeiture and seizure”

21. The term “firearm” includes rifles “having a barrel . . . less than 16 inches in length.” 26 U.S.C. § 5845(a).

22. “The term ‘rifle’ means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.” 26 U.S.C. § 5845(c).

23. The SP89, as modified, is a rifle that must be registered under the NFA.

24. The SP89 was possessed by the decedent on or before March 1, 2019, in this District, and it was not lawfully registered or transferred before or after the decedent’s death.

25. Because the SP89 was not registered under the NFA and because it was not – and has not been – lawfully transferred, it is subject to forfeiture under 26 U.S.C. § 5872.

REQUESTED RELIEF

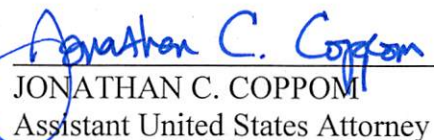
For the reasons and facts set forth above and incorporated here, the United States requests that the Court grant the following relief:

- A. That notice of the action be given to all persons known or thought to have an interest in or right against the SP89;
- B. That the SP89 be forfeited and condemned to the United States;
- C. That the United States be awarded its costs and disbursements in this action; and
- D. That the United States be awarded all other relief that the Court deems proper and just.

DATED this 17th day of December 2019.

MARK A. KLAASSEN
United States Attorney

By:



JONATHAN C. COPPOM
Assistant United States Attorney


VERIFICATION

I, Special Agent Jay Johnson, hereby verify and declare under penalty of perjury that I am a Special Agent with the United States Bureau of Alcohol, Tobacco, Firearms and Explosives, that I have read the foregoing Verified Complaint *In Rem* and know the contents thereof, and that the matters contained in the complaint are true to my knowledge, except that those matters not within my own personal knowledge are alleged on information and belief, and as to those matters I believe them to be true.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement officers, as well as my investigation of this case, together with other officers, as a Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.

DATED this 25 day of November 2019.



JAY JOHNSON, Special Agent